IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE TWENTY EIGHTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

And

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT APPEAL NO : 1054 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 27-10-2003 in WP No.3492 OF 2003 on the file of the High Court.)

Between:

1 Sri Sai Degree & P.G. College

Rep by its Correspondent Sri S. Ganesh Reddy,

S/o S. Narasimha Reddy,

H. No. 16-2-752/21/39, Triveni nagar,

Gaddiannaram, Hyderabad.

2 Shashank Educational Society,

Rep by President Sri S. Ganesh Reddy,

S/o S. Narasimha Reddy,
H. No. 16-2-752/21/39, Triveni nagar,

Gaddiannaram, Hyderabad. **..... APPELLANT(S)**

AND

1 The Commissioner,

Municipal Corporation of Hyderabad,

Hyderabad, Andhra Pradesh

2 Triveni Nagar Colony Welfare Association,

(Regd. No. 2081/86),

H. No. 16-2-752/21/20,
Triveni Nagar, Gaddiannaram, Hyderabad-60.

Rep. By its President V.V. Narasimha Rao

S/o late Seetharam Rao, Occ: Retd. Officer,

R/o H. NO. 16-2-752/21/21, Triveni Nagar,

Gaddiannaram, Hyderabad-60. **.....RESPONDENT(S)**

Counsel for the Appellants: MR.M.SURENDER RAO
Counsel for Respondent No.1: MR.RAMA RAO GANTA, SC for MCH.
Counsel for Respondent No.2: Mr.Ch. Dananjaya.

The Court made the following :

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JUDGMENT:(Per Hon'ble Sri Justice B. Sudershan Reddy)

The question as to whether the construction of a community hall undertaken by the respondents in Triveni Nagar Colony Cooperative Housing Society is contrary to the sanctioned layout, need not be gone into in this matter at the instance of the appellant. The appellant had not preferred this writ petition in any public interest. The grievance of the appellant is that the proposed construction obstructs free flow of air and light into the building occupied by it. It is under those circumstances, the learned single Judge observed that the dispute raised by the appellant herein is in the nature of asserting easementary rights and the remedy if at all available to the appellant is only by way of filing a civil suit.

Learned single Judge, in our considered opinion, did not commit any error in disposing of the writ petition giving liberty to the appellant to get his claim adjudicated before an appropriate Forum.

We find no merit in this Writ Appeal and the same shall accordingly stand dismissed. No order as to costs.

However, this order shall not come in the way of the appellant in filing suit, if it intends to do so, asserting its claim based on easementary rights.

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B. SUDERSHAN REDDY, J

Date:28-07-2004

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K.C. BHANU, J

PV

To

1) The Commissioner,

Municipal Corporation of Hyderabad.

2) Two C.D. copies.